

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 396

BY JAQUET

AN ACT

RELATING TO TAXATION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-120, IDAHO CODE, TO CREATE THE IDAHO TAX REVIEW COMMISSION AND TO PROVIDE FOR MEMBERS AND TERMS; AND AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-121, IDAHO CODE, TO PROVIDE THAT THE IDAHO TAX REVIEW COMMISSION SHALL REVIEW EXEMPTIONS TO THE SALES AND USE TAX AND TO DEFINE A TERM.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-120, Idaho Code, and to read as follows:

63-120. IDAHO TAX REVIEW COMMISSION, CREATION, MEMBERS, TERMS. (1) There is hereby created within the department of revenue and taxation a commission to be known as the Idaho tax review commission. The Idaho tax review commission shall be composed of sixteen (16) members as follows:

(a) Two (2) members shall be appointed by the speaker of the house of representatives from the house of representatives who shall be from different political parties.

(b) Two (2) members shall be appointed by the president pro tempore of the senate from the senate who shall be from different political parties.

(c) Five (5) members shall be appointed by the governor, not more than three (3) of whom shall be from the same political party, and the other two (2) of whom shall be from other political parties which are represented in the state senate or state house of representatives.

(d) One (1) member who is a member of the state tax commission appointed by the tax commission.

(e) One (1) member who is the chair of the house of representatives revenue and taxation committee.

(f) One (1) member who is the chair of the senate local government and taxation committee.

(2) The twelve (12) members appointed pursuant to subsection (1) of this section shall select four (4) additional members with consideration to be given to representation from the major geographical areas and economic sectors of the state and equal bipartisan representation.

(3) Except for the members appointed pursuant to subsection (1)(a), (b), (e) and (f), and except as required by subsection (4), members shall be appointed to four (4) year terms.

(4) Notwithstanding the requirements of subsection (3), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that

1 approximately one-half (1/2) of the commission is appointed every two (2)
2 years.

3 (5) Members of the commission who are not state officers or employees
4 or members of the legislature shall be compensated as provided in section
5 59-509(b), Idaho Code.

6 SECTION 2. That Chapter 1, Title 63, Idaho Code, be, and the same is
7 hereby amended by the addition thereto of a NEW SECTION, to be known and
8 designated as Section 63-121, Idaho Code, and to read as follows:

9 63-121. REVIEW OF SALES TAX EXEMPTIONS. (1) Beginning with the 2011
10 legislative interim, the Idaho tax review commission, in cooperation with
11 the office of the governor and the tax commission, shall conduct a review
12 of the sales and use tax exemptions as defined in subsection (4) of this
13 section.

14 (2) The Idaho tax review commission shall evaluate each of the sales and
15 use tax exemptions as defined in subsection (4) of this section one (1) or
16 more times every eight (8) years. Each year the Idaho tax review commission
17 will select the exemptions it will evaluate that year. The Idaho tax review
18 commission's evaluation will determine the fiscal impact of each sales and
19 use tax exemption and will also evaluate the exemption in accordance with
20 such criteria as it deems appropriate, and the criteria contained in the
21 final report of the 2007 interim committee on tax exemptions, which criteria
22 were as follows:

23 (a) Equity and fairness

24 (i) Is the benefit available to all organizations or individuals
25 in similar industries or situations?

26 (ii) Is the benefit broad (for virtually all classes of taxpayers)
27 or narrow (limited to a few)?

28 (iii) Is the product or service, or its component parts, already
29 taxed by the state or other government?

30 (b) Certainty

31 (i) Are rules clear about when and how tax is paid and amount due?

32 (c) Convenience of payment

33 (i) Is the tax payable at a time and in a manner convenient to
34 taxpayers?

35 (d) Economy in administration

36 (i) Is the benefit easy to claim by the taxpayer?

37 (ii) Is the benefit easy to administer by the government?

38 (e) Simplicity

39 (i) Does the benefit simplify or clarify existing tax code rather
40 than complicate it?

41 (ii) Is the benefit easily calculated and accountability
42 maintained with minimal recordkeeping?

43 (iii) Does the benefit bring us in compliance with federal law
44 rather than create another departure?

45 (iv) Are unintended consequences unlikely (are ramifications
46 well understood)?

47 (f) Benefit objectives

48 (i) How does the benefit influence the behavior of individual
49 taxpayers or organizations?

1 (ii) Are the objectives of the benefit clearly stated?

2 (iii) To what extent does the tax benefit promote the public
3 interest?

4 (iv) Does the benefit serve to attract or stimulate the state's
5 economic condition, particularly in areas in need of growth?

6 (v) Is the benefit needed in order to compete with similar
7 benefits in surrounding states?

8 (g) Transparency and visibility

9 (i) Can the public easily understand the benefit and/or
10 consequence of any tax shift?

11 (ii) Is the benefit better claimed as a tax break rather than
12 through a budget appropriation?

13 (iii) Would a sunset, clawback or cap provision be appropriate?

14 (h) Appropriate government revenues

15 (i) Does the tax break benefit an organization that provides
16 goods or services that the government would otherwise provide?

17 (ii) Is the fiscal impact of the tax benefit reasonably
18 determinable with existing or readily developed data?

19 (iii) Does the benefit have an acceptable impact on government
20 revenues?

21 (3) The Idaho tax review commission shall, for each sales and use tax
22 exemption it evaluates, make a report with recommendations to the governor,
23 the house revenue and taxation committee and the senate local government and
24 taxation committee.

25 (4) For the purposes of this section, "sales and use tax exemption(s)"
26 means any sale, storage, use or other consumption of tangible personal
27 property or any sale of services not presently subject to the sales and use
28 tax provided for by chapter 36, title 63, Idaho Code, including, but not
29 limited to, any sales and use tax exemption expressly created in chapter 36,
30 title 63, Idaho Code, or in any other provision of law, but such term does not
31 include any exemption because this state is prohibited from levying such tax
32 by virtue of the constitution of the United States.